

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

_____X

UNITED STATES OF AMERICA,

-against-

HERIBERTO MARTINEZ,
VIDAL ESPINAL, and,
CARLOS ORTEGA,

10 Cr. 074 (S4) (JFB)

Defendants.

_____X

**DEFENDANT HERIBERTO MARTINEZ'S
PROPOSED JUROR QUESTIONNAIRE FOR TRIAL GROUP III**

ELIZABETH E. MACEDONIO, ESQ.
42-40 Bell Blvd., Suite 302
Bayside, New York 11361
(718) 279-3770

Attorney for Defendant Heriberto Martinez

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

-against-

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VIDAL ESPINAL, and,
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HONORABLE JOSEPH F. BIANCO
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NEW YORK
100 FEDERAL PLAZA
CENTRAL ISLIP, NEW YORK

Jurors are instructed to call xxx-xxx-xxxx on Tuesday, January 29, 2013
after 7:00 P.M. for further reporting instructions.

JUROR QUESTIONNAIRE
PRELIMINARY INSTRUCTIONS

You will be identified by your juror number, which is stamped at the upper right hand corner of each page of this questionnaire. DO NOT WRITE YOUR NAME ON ANY PAGE EXCEPT THE JUROR INFORMATION SHEET which is the last page of this document. Write only on the front pages of this questionnaire. Do not write anything on the reverse side of this document.

Upon your oath or affirmation, you must give true and complete answers to all questions. These questions are not meant to ask unnecessarily about personal matters. Rather, these questions will help the Court determine whether you can be fair and impartial in deciding this case and will also provide information about you as a juror to help the parties select a jury.

Remember there are no “right” or “wrong” answers; there are only truthful answers. Part of the selection process depends on your ability and promise to follow the law as it is explained by the Court. Thus, some of the questions include descriptions of legal principles and ask whether you can conscientiously follow them.

THE COURT INSTRUCTS YOU NOT TO DISCUSS THE QUESTIONS AND ANSWERS WITH FELLOW JURORS. IT IS VERY IMPORTANT THAT YOUR ANSWERS BE YOUR OWN INDIVIDUAL ANSWERS. Further, the Court instructs you not to discuss anything about the case with anyone: not the defendants, the lawyers, your fellow jurors, your family, your friends, or anyone else. Please try to write as legibly as possible. It is very important that the answers be yours and yours alone.

SUMMARY OF THE CHARGES

This case, United States v. Heriberto Martinez, et al., is a criminal case in which the defendants have been charged with federal crimes. The defendants are charged in an indictment with criminal offenses. Specifically, the indictment in this case alleges that the defendants are members of La Mara Salvatrucha, also known as the MS-13, and that they committed a variety of crimes as part of that criminal enterprise, including, variously, racketeering, racketeering conspiracy, murder, assault, attempted murder and conspiracy to commit murder in aid of racketeering, and related firearms charges. An indictment listing the criminal charges against a defendant is simply the document used to advise a defendant of the accusations against him. The indictment is not evidence.

You must evaluate the evidence against each defendant separately. The fact that these defendants are being tried together does not mean that the evidence against each of them is the same. Our law simply permits defendants to be tried together in order to save judicial resources. The law presumes all defendants are innocent. The defendants have pleaded not guilty to all charges in the Indictment. It is the government that has the burden of proof under our system of law. The prosecution must come forward with proof beyond a reasonable doubt that a defendant has committed the charged crimes before a defendant can be found guilty. The defendants have no obligation to produce any evidence or do anything else at trial. This is because the law presumes a defendant to be innocent of the charges brought against him.

Remember that under the law an indictment is not evidence. It is merely an accusation, and a defendant is presumed to be innocent of the charges described in an indictment unless and until the government establishes a defendant's guilt beyond a reasonable doubt. If you are selected as a juror in this case, it will be your duty to determine whether, based solely on the

evidence presented at trial, the government has proved beyond a reasonable doubt that the defendants are guilty of the crimes charged.

You will notice that each defendant has his own lawyer(s) and that the lawyers will confer with one another and discuss certain matters. This behavior is both appropriate and encouraged as it saves everyone, including you, a lot of time.

DO NOT make any attempt to learn about this matter from sources outside of the courtroom, such as the news media or the internet. If in fact you inadvertently stumble upon some media coverage or other information, please report this to the Court. Please do everything you can to avoid and ignore any information you do not hear in this courtroom. If you are selected to serve on the jury, you will judge this case solely on the evidence presented at trial.

JUROR ANONYMITY

The purpose of this questionnaire is to assist the court and the parties in selecting a jury of individuals that can be fair and impartial. The Court is following the practice used in other cases in the federal courts of keeping the identities of the jurors confidential. The Court uses this procedure because this case is likely to attract attention in the media and among the public. Anonymity will assure that the jury will not be exposed to such prying and to opinions, commentaries and inquiries which might impair its ability to decide the case solely upon the evidence presented in court and upon the law as I instruct. It is important to ensure that the jury will in no way be influenced by the public, by the members of the media and their articles and reports. I wish to emphasize that I am taking these measures to protect your rights of privacy and to assist you in discharging your responsibility as jurors fairly and impartially.

To ensure that your rights of privacy will be respected, only the last page of the attached questionnaire asks you to state your name and other identifying information. That page will be detached from the questionnaire when you have completed it and will be locked securely in the office of the Clerk of the Court. That page will not be available to anyone, including the presiding Judge, the parties to the case and the lawyers. Should special circumstances or other good cause require, and provided that the prior approval of the presiding Judge is obtained, that information may be made available to such person or persons as the presiding Judge deems necessary. On the remaining pages of the questionnaire, you are instructed not to give names or addresses or any information that will permit anyone, even the presiding Judge, to identify you.

PART I: HARDSHIP

Jury selection will begin on January 28, 2013, and the trial is expected to begin on February 4, 2013. Once testimony begins we anticipate the case should last between six to eight weeks. Trial will be in session, generally speaking, Monday through Thursday from 9:30 a.m. to 4:30 p.m. To be on the safe side, therefore, we are requiring that the jurors who serve on this case must be available through the end of March 2013. The trial will recess for national and major religious holidays. Jurors will receive a printed schedule of trial dates upon final selection of the jury.

If you are selected as a juror, you will be required to be present for the taking of testimony for as long as the case lasts. You will not be sequestered, meaning you will go home every day after court.

The Court views service on a jury in a federal criminal trial to be one of the highest duties a citizen owes to the United States. Mere inconvenience or the usual financial hardships of jury service will not be sufficient to excuse a prospective juror.

1. Do you have an unusual financial hardship or other serious problem that would prevent you from serving as a juror in this case?

Yes _____ No _____

If yes, please explain:

PART II: BACKGROUND
(Questions 2 through 44)

Part II asks questions about you and your background, and very general questions about your family.

2. Do you have any difficulty reading or understanding English?

Yes _____ No _____

If yes, please explain:

3. Besides English, what other languages, if any, do you read or understand?

4. Do you have any physical or medical condition (such as hearing, eyesight, back problems, or medication you are taking), or any emotional problem, that would make it unusually difficult for you to serve as a juror in this case?

Yes _____ No _____

If yes, please describe:

5. Are you presently taking any prescription medication?

Yes _____ No _____

If yes, which medications:

6. What is your age: _____

7. Are you: Male _____ Female _____

8. (a) Where were you born?

(b) Where were you raised?

(c) Where were your parents born?

9. Are you:

Married	_____	Living with a Partner	_____
Single	_____	Divorced/Separated	_____
Window/Widower	_____		

10. (a) What do you regard as your ethnic background and that of your spouse/life partner (if applicable)?

Yours:

Spouse/life partner:

(b) In what religion were you raised, if any?

(c) How often do you attend a place of worship?

Regularly _____ Seldom _____

Occasionally _____ Never _____

(d) Do you have any personal, religious or philosophical beliefs that would interfere with your ability to deliberate or otherwise serve as a juror?

Yes _____ No _____

If yes, please explain:

11. How long have you lived at your present residence?

12. Do you:

Own a home? _____

Rent? _____

Live in a dwelling owned by relatives? _____

Live in a dwelling with your family or others? _____

If so, who do you live

with? _____

Other living situation?

13. If you live in Nassau or Suffolk County, in what community do you live?

14. If you live in Brooklyn, Queens or Staten Island, in what area or neighborhood do you live (e.g., Canarsie, Jackson Heights, Stapleton)?

15. What other areas or neighborhoods have you lived in over the past 10 years?

16. (a) Do you live in, or are you familiar with, a neighborhood that you believe has an organized crime or street gang presence? Yes _____ No _____

If yes, please explain:

- (b) If yes, do you have any opinions or beliefs regarding the particular neighborhood, or the perceived presence of organized or street gang related crime? If yes, please provide details.

17. Are you (check any and all that apply):

Employed full-time? _____

Retired? _____

Employed part-time? _____

Disabled and unable to work? _____

Work at home? _____

Student? _____

Homemaker? _____

If a student, what area of study? _____

Unemployed/laid off? _____

18. If you are employed by another, please answer the following:

(a) Without mentioning the name of your employer, what type of work do you do?

(b) How long have you worked in your present job?

(c) Do you supervise others in your job?

Yes _____ No _____ If yes, how many? _____

(d) For how long have you been a supervisor?

(e) Without mentioning the name of the union, are you a member of a union?

Yes _____ No _____

If yes, how long have you been a member of the union? _____

(f) Do you have a position in a union? Yes _____ No _____

If yes, what position? _____

(g) Which best describes your employer:

_____ Federal government

_____ State or local government

_____ Large business or organization (more than 250 employees)

_____ Medium-sized business or organization (50 to 20 employees)

_____ Small business or organization (fewer than 50 employees)

19. If you are self-employed, answer the following:

(a) Without mentioning the name of your business, what type of business is it? What is your job title? What are your duties? And, what area or neighborhood do you work in?

(b) How long have you been self-employed?

(c) Do you have any employees? Yes _____ No _____

If yes, approximately how many? _____

20. If you are retired or unemployed, what type of work was your last employment?

21. What other occupations have you had in the last ten years?

22. What is your annual income level? If you are married and your spouse/life partner is employed, please include his/her income:

Less than \$25,000 _____
 \$25,000 - \$50,000 _____
 \$50,000 - \$100,000 _____
 \$100,000-\$150,000 _____
 Over \$150,000 _____

23. (a) How far did you go in school?

Elementary School: Yes _____ No _____
 High School: Yes _____ No _____
 Level Completed: _____ G.E.D. _____
 College: Yes _____ No _____
 Level Completed: _____
 Post Graduate: Yes _____ No _____

(b) If you earned a degree after high school, please list the institution(s) at which you studied and major area of study (Example: Stony Brook University, BA, History Major, 1988)

(c) If you are presently a student, what is your area of study?

24. If you are married or have a life partner, please answer the following questions about your spouse/life partner's employment:

(a) Is your spouse/life partner employed? Yes _____ No _____
 If yes, in what type of work?

(b) How long has your spouse/life partner been at his/her present job?

(c) If your spouse/life partner is retired or not employed, please indicate and also describe the type of work he or she did during his/her last period of employment:

25. (a) Have you or any member of your family or close friends ever been employed by or otherwise affiliated with a law enforcement agency? (This would include a state, federal, county and local police department, the U.S. Attorney's Office, the District Attorney's Office, U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service), the Department of Homeland Security, the Secret Service, the Federal Bureau of Investigation, the Drug Enforcement Administration, the Internal Revenue Service, all federal, state, county and municipal prosecutor's offices, medical examiner's offices, courts, probation offices, and correctional facilities such as federal prisons, state prisons, local jails and juvenile facilities)

Yes _____ No _____

If yes, when, where and what agency? (Do not name the person referenced but state his/her relationship to you.)

(b) Are you, a close friend or a member of your family presently planning to apply for a position in law enforcement, including corrections?

Yes _____ No _____

If yes, what is the relationship of that person and what agency?

26. (a) Are you or do you have any close relatives or friends who are judges, law clerks, court attendants, court clerks, other types of court personnel, probation officers, or persons connected with any correctional institution, jail or penitentiary?

Yes _____ No _____

If yes, please explain (without naming the person):

(b) Have you or a family member ever worked for, or had business dealings other than routine activity (like paying taxes or receiving Social Security Benefits, Medicaid, Medicare, etc.) with, any federal, state, or city government or any of their agencies?

Yes _____ No _____

If yes, please explain (without naming the person):

(c) If yes, is there anything about those experiences that would interfere with your ability to render a fair and impartial verdict in this case?

Yes _____ No _____

If yes, please explain:

27. (a) Have you ever taken any courses or worked in the fields of drug abuse counseling, law, criminal justice, criminology, or other related areas?

Yes _____ No _____

If yes, please list the courses or explain the experience:

(b) Have you or any of your relatives or close friends worked for a criminal lawyer or private investigator?

Yes _____ No _____

If yes, for how long and please explain his/her/their relationship to you (without naming the person):

28. If you have any children/grandchildren, please answer the following:

AGE	SEX	EDUCATION LEVEL	TYPE OF EMPLOYMENT
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

29. (a) Were you ever in the military service (including reserves, National Guard or ROTC)?

Yes _____ No _____

(b) What branch?

(c) What was the highest rank you achieved?

(d) What type of work did you perform in the service?

(e) Where did you serve?

(f) Any service in the military police? Yes _____ No _____

(g) Were you assigned to combat duty? Yes _____ No _____

If yes, where?

(h) Have you ever participated in a court martial? Yes _____ No _____

If yes, please explain your role.

(i) Year of discharge from military? _____

(j) Was an honorable discharge received? Yes _____ No _____

(k) Would your military experience prevent you from evaluating the evidence presented in this case in a fair and impartial manner?

Yes _____ No _____

If yes, please explain:

(l) If you have a child, spouse or partner who served in the military, is there anything about their experience that would prevent you from evaluating the evidence presented in this case in a fair and impartial manner?

Yes _____ No _____

If yes, please explain:

30. (a) In the past ten years, have you or any immediate family member ever participated in any group that lobbies or takes public positions on social or legal issues (for example, the right to bear firearms/gun control)?

Yes _____ No _____

(b) If yes, please describe the type of group (without specifically naming it) and the length of your/his/her involvement in the group.

(c) If yes, would that experience prevent you from evaluating the evidence presented in this case in a fair and impartial manner?

Yes _____ No _____

If yes, please explain:

31. (a) Have you, a family member, or close friend ever attended law school or been a lawyer?

Yes _____ No _____

(b) If yes, have you, a family member or close friend ever practiced law in the area of criminal defense or prosecution?

Yes _____ No _____

(c) Do you have any opinions about lawyers that would make it difficult for you to render a fair and impartial verdict?

Yes _____ No _____

If yes, please explain:

32. (a) Do you, or does anyone in your household, or a close friend own any guns?

Yes _____ No _____

If yes, state how many and what type: _____

(b) What is the reason for ownership? (Check all that apply)

_____ Hunting
_____ Collector's Item
_____ Protection
_____ Other (please explain) _____

(c) If you do not own any guns, do you have any strong feelings against guns or gun ownership?

Yes _____ No _____ If yes, please explain:

33. (a) List any newspapers and magazines that you subscribe to or read, and indicate how frequently you read them (e.g., daily, often, occasionally, rarely):

(b) Have you ever written a letter to the editor of a newspaper or magazine?

Yes _____ No _____

If yes, please explain:

(c) What were the last three books that you read?

34. List your 5 most frequently watched TV programs and how often you watch them.

35. What radio stations do you listen to?

36. What websites do you regularly visit?

37. As a result of your exposure to the media, is there any reason why you cannot be fair and impartial in this case?

Yes _____ No _____ If yes, please explain:

38. (a) List any hobbies and special interests that you have: (In other words how do you spend your free time?)

(b) Do you belong or have you belonged to any civic clubs or associations, such as, but not limited to, Kiwanis, Rotary Club, Knights of Columbus, Veterans of Foreign Wars, or American Legion?

Yes _____ No _____

If yes, please list any such clubs or associations to which you have belonged, along with the length of time in each:

(c) Are you a member of the National Rifle Association?

Yes _____ No _____

If yes, for how long?

(d) Have you, or any members of your family, or a close friend, ever been a member of, or otherwise involved with, a victim's rights group?

Yes _____ No _____

If yes, please describe briefly:

39. In terms of your political outlook, do you usually think of yourself as:

Very conservative	_____	Very liberal	_____
Somewhat liberal	_____	Middle of the road/moderate	_____
Somewhat conservative	_____		

40. (a) Other than friends and relatives, who are the three people, living or dead, that you admire most?

(b) Other than friends and relatives, please list the three people, living or dead, you least admire:

(c) Other than friends and relatives, please list the person who most influenced your life and state why:

41. Would you characterize yourself as a leader or a follower?

42. Please check the answer which best describes whether you generally “hold your ground” when you feel you are correct, or whether you are swayed by the strong influence of others:

- ☐ Always hold my ground
☐ Generally hold my ground
☐ Usually hold my ground but open to the opinions of others
☐ Sometimes swayed by others
☐ Often swayed by others
☐ Always swayed by others

43. (a) Have you ever been:

- | | | |
|----------------------------------|------------------------------|-----------------------------|
| (i) a juror in a civil case? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (ii) a juror in a criminal case? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |
| (iii) a grand juror? | Yes <input type="checkbox"/> | No <input type="checkbox"/> |

(b) Have you ever been a juror in a case where the jury was unable to reach a verdict?

Yes ☐ No ☐

(c) If you have served on a jury, please provide the following information:

Date	State or Federal	Grand Jury or Trial Jury	Criminal or Civil	Nature of Case (Slip And fall – Robbery)	Was there a verdict (yes/no)
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____
_____	_____	_____	_____	_____	_____

(d) Is there anything about your prior jury service that would impact your ability to be a fair and impartial juror in this case?

Yes _____ No _____

If yes, please explain:

44. (a) Have you ever filed a complaint with the police against anyone?

Yes _____ No _____

If yes, please describe the circumstances:

(b) Is there anything about that situation that would impact your ability to be a fair and impartial juror in this case?

Yes _____ No _____

If yes, please explain:

PART III : EXPERIENCES AND BELIEFS
(Questions 45 through 82)

Part III asks questions about experiences you may have had and opinions you may have formed. Again, there are no right or wrong answers. Please be as thoughtful and candid as possible.

45. Based upon the description of this case provided at the beginning of this questionnaire, do you believe you have knowledge about the events charged in the Indictment?

Yes _____ No _____

If yes, please explain:

46. After learning about the nature of the charges in this case, what was your initial reaction?

Please explain:

47. As a result of your initial reaction to hearing the charges in this case, did you draw any conclusions as to the guilt or innocence of the defendants?

Yes _____ No _____

If yes, please explain:

48. Do you have an opinion about whether the defendants are guilty of the crimes with which they are charged?

Yes _____ No _____ If yes, please explain:

49. (a) What recent criminal trials, if any, have you followed in the newspapers, magazines, or on TV?

(b) What opinions or feelings do you have regarding those trials and the outcomes of those trials?

(c) Do you have any opinions, feelings or beliefs as a result of those trials that would make it difficult for you to evaluate the evidence fairly and impartially in accordance with the Court's instructions?

Yes _____ No _____

If yes, please explain:

(d) Do you have any feelings, beliefs, or opinions regarding criminal defense lawyers and their role within the criminal justice system?

Yes _____ No _____

If yes, please explain:

50. (a) Have you ever been a victim of racial, ethnic or religious prejudice or discrimination?

Yes _____ No _____

If yes, please explain the circumstances:

(b) If you have experienced racial, ethnic or religious prejudice, do you believe it would affect your ability to be fair, or would it make it difficult for you to render a fair and impartial verdict?

Yes _____ No _____

If yes, please explain:

(c) Have you ever received a benefit in society because of your race, ethnicity or religion?

Yes _____ No _____

If yes, please explain:

(d) If you have received such a benefit, do you believe it would affect your ability to be fair or would it make it difficult for you to render a fair and impartial verdict?

Yes _____ No _____

If yes, please explain:

51. (a) Have you or has a family member or close friend ever been a witness to or the victim of a crime?

Yes _____ No _____

If yes, please explain the circumstances:

(b) Did you or your family member or close friend report that crime to the police or other law enforcement agency?

Yes _____ No _____

(c) Did law enforcement personnel respond to the report appropriately?

Yes _____ No _____

(d) Were you, or was your family member or friend, called to testify?

Yes _____ No _____

(e) Is there anything about this experience that would make it difficult for you to evaluate the evidence fairly and impartially in accordance with the Court's instructions?

Yes _____ No _____

If yes, please explain:

52. (a) As a general proposition, do you tend to believe that a member of law enforcement, such as a police officer or federal agent, who testifies in court is (check one):

_____ More likely to tell the truth than other witnesses
_____ About as likely to tell the truth as other witnesses
_____ Less likely to tell the truth than other witnesses

(b) Do you have any opinions or beliefs concerning law enforcement in general – including, the Federal Bureau of Investigation, U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service), the Department of Homeland Security, the New York City Police Department, and the Department of Justice – that would make it difficult for you to evaluate the evidence fairly and impartially in accordance with the Court's instructions?

Yes _____ No _____

If yes, please explain:

(c) Do you believe that any group does not receive fair treatment from police, prosecutors, or any other law enforcement agency?

Yes _____ No _____

If yes, please explain:

(d) Do you believe that any group receives preferential treatment from police, prosecutors, or any other law enforcement agency?

Yes _____ No _____

If yes, please explain:

(e) Can you put aside such opinions or beliefs as may have been described above, and evaluate this case based upon the evidence presented during the trial, in accordance with the Court's instructions?

Yes _____ No _____

If no, please explain:

53. Have you ever appeared or testified as a witness in any investigation or legal proceeding?

Yes _____ No _____

If yes, please explain the nature of the proceeding:

54. (a) Are you or is anyone close to you, including family or friends, now under subpoena or about to be subpoenaed in any criminal case?

Yes _____ No _____

If yes, please explain:

(b) Have you ever been questioned or subpoenaed in any matter by the New York City Police Department, any state or local law enforcement agency, the Department of Justice or any United States investigative agency such as the Federal Bureau of Investigation, the Drug Enforcement Administration, U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service), the Department of Homeland Security, the Internal Revenue Service or the Bureau of Alcohol, Tobacco and Firearms?

Yes _____ No _____

(c) If yes, do you believe that you were fairly treated in connection with such matter?

Yes _____ No _____

If no, please explain:

(d) Have you ever been involved, or do you expect to become involved, in any legal action or dispute with the United States or any agency, officer, or employee of the United States, including U.S. Immigration and Customs Enforcement (formerly the Immigration and Naturalization Service), the Internal Revenue Service, or with the City of New York or any agency, officer or employee of the City of New York, including the New York City Police Department, or have you had any financial interest in such a dispute?

Yes _____ No _____

If yes, please explain:

(e) If you answered “yes” to (a), (b), or (d), above, or if you answered “no” to (c), above, is there anything about these facts that would make it difficult for you to sit as a fair and impartial juror in this case?

Yes _____ No _____

If yes, please explain:

55. (a) Have you, or has a family member or close friend, ever been involved in or been the target of a criminal investigation?

Yes (self) _____ Yes (family/friend) _____ No _____

If yes, without mentioning names, please generally describe the circumstances surrounding the criminal investigation(s) and your relationship(s) to the person(s) involved:

(b) Have you, or has a family member or close friend, ever been charged with a crime?

Yes (self) _____ Yes (family/friend) _____ No _____

If yes, without mentioning names, please generally describe the circumstances surrounding the criminal investigation(s) and your relationship(s) to the person(s) involved:

(c) If you answered "yes" to (a) or (b) above, was the individual who was investigated or charged treated fairly by the criminal justice system?

Yes _____ No _____

If no, please explain:

(d) Have you or a family member or close friend ever been falsely accused of a crime?

Yes _____ No _____

If yes, please explain the circumstances:

(e) Do you have, or have you ever had, a close friend or family member in prison?

Yes _____ No _____

If yes, without mentioning names, please explain:

(f) Have you ever visited or toured a prison or jail facility?

Yes _____ No _____

If yes, without mentioning names, please explain:

(g) If you answered “yes” to (a), (b), (d) or (e) above, is there anything about these facts that would make it difficult for you to sit as a fair and impartial juror in this case?

Yes _____ No _____

If yes, please explain:

56. (a) Have you, or any close friend or relative, ever been treated for a substance abuse problem?

Yes _____ No _____

If yes, please explain:

(b) If you or a close friend or relative have been treated for substance abuse, would it be difficult for you to sit as a fair and impartial juror in this case?

Yes _____ No _____

If yes, please explain:

(c) If you answered “yes” to the above, did you or your close friend have any contact with the criminal justice system as a result of that substance abuse problem?

Yes _____ No _____

If yes, please explain:

(d) If you answered “yes” to the above, is there anything about that contact with the criminal justice system that would make it difficult for you to sit as a fair and impartial juror in this case?

Yes _____ No _____

If yes, please explain:

57. The Judge presiding over this case is The Honorable Joseph F. Bianco. Do you know, or does any relative or friend know, or have any connection with, Judge Bianco?

Yes _____ No _____

If yes, please explain:

58. This case is being prosecuted by the United States Attorney's Office for the Eastern District of New York. The United States Attorney for this District is Loretta E. Lynch. Do you know, or does any relative or friend know, or have any connection, with Loretta E. Lynch or anyone associated with her office?

Yes _____ No _____

If yes, please explain:

59. (a) Do you or does any relative or close friend know or have any connection with any of the following prosecutors and their assistants, or their relatives or friends?

Assistant United States Attorney John J. Durham
Assistant United States Attorney Raymond A. Tierney
Assistant United States Attorney Carrie N. Capwell
Paralegal Specialist xxxxxxx xxxxxx

Yes _____ No _____

If yes, please explain:

(b) Have you seen, heard, or read anything about any of these prosecutors or their assistant?

Yes _____ No _____

If yes, what have you seen, heard, or read?

(c) Do you or does any relative or close friend know or have any connection to any of the following law enforcement officers or their relatives or friends?

James Lopez, Special Agent, FBI
xxxxx xxxxx, Special Agent, FBI
xxxxx xxxxx, Special Agent, FBI

Yes _____ No _____

If yes, please explain:

(d) Do you or does any relative or close friend know anyone who works in the federal courthouses in Central Islip or Brooklyn?

Yes _____ No _____

If yes, please explain:

60. (a) Do you or does any relative or close friend know or have any connection to the defendants, or their relatives or friends?

Heriberto Martinez, also known as "Boxer"
Vidal Espinal, also known as "Demente"
Carlos Ortega, also known as "Silencio"

Yes _____ No _____

If yes, please explain:

(b) Have you seen, heard, or read about the defendants in this case?

Yes _____ No _____

If yes, what have you seen, heard or read?

(c) Have you formed an opinion as to the defendants based on anything that you have seen, heard, or read?

Yes _____ No _____

If yes, what is that opinion?

61. (a) Do you or does any relative or close friend know or have any connection with any of the following defense attorneys and their assistant or their relatives or friends?

Elizabeth E. Macedonio, Esq.
John F. Carman, Esq.
Ira D. London, Esq.
Marianne S. Rantala Esq.
Arnold Levine, Esq.
Carla Comisso, Esq.

Yes _____ No _____

If yes, please explain:

(b) Have you seen, heard or read anything about any of these defense attorneys?

Yes _____ No _____

If yes, what have you seen, heard or read?

(c) Is there anything in what you have seen, heard or read about the prosecutors, law enforcement personnel, the defendants, or defense attorneys and their assistant, that would prevent you from rendering a fair and impartial verdict in this case?

Yes _____ No _____

If yes, please explain:

(d) Have you formed an opinion of this case thus far based on anything that you have seen, heard or read?

Yes _____ No _____

If yes, what is that opinion?

62. Do you have any bias, sympathy, or prejudice with reference to the defendants that would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial?

Yes _____ No _____

If yes, please explain:

63. Do you agree that you are fulfilling your duty as a juror by voting for acquittal, if there is reasonable doubt as to guilt, just as you would be fulfilling your duty as a juror by voting for conviction, if there was no such doubt?

Yes _____ No _____

If yes, please explain:

64. The names of the homicide victims in this case and the dates and locations of their deaths are as follows:

Name	Date of Death	Location of Death
Vanessa Argueta	February 5, 2010	Connetquot Avenue & Windsor Place, Islip, NY
Diego Torres	February 5, 2010	Connetquot Avenue & Windsor Place, Islip, NY
David Sandler	February 17, 2010	Timberland Drive & Second Avenue, Brentwood, NY
Nestor Moreno	March 6, 2010	El Rancho Bar – Fulton Avenue, Hempstead, NY
Mario Quijada	March 17, 2010	Beach 12 th St. & the Boardwalk, Far Rockaway, NY

(a) Did you, a family member, or a close friend, know any of these individuals or members of their families?

Yes _____ No _____

If yes, please explain how you knew the person (without providing a specifics that would reveal your identity):

(b) If yes, is there anything about your familiarity with this person (people) that would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial?

Yes _____ No _____

If yes, please explain:

(c) Are you familiar with any of the locations listed as the crime scenes?

Yes _____ No _____

If yes, please explain how you are familiar with that area(s) (without providing a specific address or otherwise revealing your identity):

(d) If yes, is there anything about your familiarity with the area(s) that would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial?

Yes _____ No _____

If yes, please explain:

65. Do you believe there are such entities as organized street gangs?

Yes _____ No _____

66. (a) List any books, magazines, movies, television programs or internet sites that you have read, watched or visited about organized street gangs, La Mara Salvatrucha, or MS-13.

(b) Is there anything in what you have seen, heard or read about street gangs, La Mara Salvatrucha, or MS-13, that would make it difficult for you to render a fair and impartial verdict in this case?

Yes _____ No _____

If yes, please explain:

(c) Do you, your relatives or close friends know anyone, or have you/they ever had contact with anyone, reputed to have ties to any street gang, La Mara Salvatrucha or MS-13?

Yes _____ No _____

If yes, please explain:

(d) Have you or any member of your family ever been affected by MS-13 or any other street gang?

Yes _____ No _____

If yes, please explain:

(e) If you or your family have ever had personal experiences with MS-13, do you believe those experiences are likely to affect your ability to be fair and impartial in this matter?

Yes _____ No _____

If yes, please explain:

67. Would the fact that the defendants are Latino or Hispanic cause you to doubt your ability to serve fairly in this case?

Yes _____ No _____

If yes, please explain:

68. (a) Have you or your community been impacted by an influx of immigrants since you have lived in your community?

Yes _____ No _____

If yes, please explain:

(b) If yes, was the impact for the better or for the worse?

(c) If yes, and the immigrants who have impacted you or your community are either Latino or Hispanic, would that affect your ability to be fair and impartial in this matter?

Yes _____ No _____

If yes, please explain:

69. Do you believe that immigrants, legal or otherwise, are entitled to the same legal protections given to American citizens?

Yes _____ No _____

Please explain:

70. Do you believe that Latinos and Hispanics are more likely to commit crimes than non-Latinos and non-Hispanics?

Yes _____ No _____

If yes, please explain:

71. Will you be able to consider evidence about racketeering, racketeering conspiracy, murder, assault, attempted murder and conspiracy to commit murder in aid of racketeering, and related firearms charges fairly and impartially and in accordance with the instructions of the Court?

Yes _____ No _____

If no, please explain:

72. Has anyone you have known been murdered?

Yes _____ No _____

If yes:

(a) What was that person's relationship to you?

(b) Were all persons responsible for the murder prosecuted?

(c) Do you believe the outcome was fair? If not, why not?

73. Would the recent murders in Newtown, Connecticut, affect your ability to be fair and impartial in a case involving gun violence?

Yes _____ No _____

If yes, please explain:

74. (a) If you were to learn that this case involved the murder of a two year old child, would that affect your ability to be fair and impartial in this case?

Yes _____ No _____

If yes, please explain:

75. Do you have any bias, sympathy, or prejudice with reference to the United States government that would make it difficult for you to render a fair and impartial judgment based solely on the evidence presented at trial?

Yes _____ No _____

If yes, please explain:

76. (a) Do you have any religious, philosophical, moral or other belief that might make you unable to render a "guilty" verdict?

Yes _____ No _____

If yes, please explain:

(b) Do you have any religious, philosophical, moral or other belief that might make you unable to render a "not guilty" verdict?

Yes _____ No _____

If yes, please explain:

77. Is there anything that you have learned about this case, whether in court or elsewhere, that makes you fearful in any way to serve as a juror?

Yes _____ No _____

If yes, please explain:

78. Is there any reason that you might fail to fairly and impartially evaluate all the evidence in this case without fear or favor toward either the government or the defendant?

Yes _____ No _____

If yes, please explain:

79. Is there any other matter that you should call to the court's attention that may have any bearing on your qualifications as a juror or that may affect your ability to render an impartial verdict based solely on the evidence and the court's instructions on the law?

Yes _____ No _____

If yes, please describe:

80. You may hear testimony from or about the people listed on Attachment A during the trial. Please turn to Attachment A at the end of this packet and circle the names of any person that you know or have any connection with.

81. You may hear testimony about locations listed on Attachment B during the trial. Please turn to Attachment B at the end of this packet and circle the names of any locations that you know about, have any connection with, or have visited.

82. Do you know of any reason why you could not fairly and impartially decide, in accordance with your oath and based solely on the evidence, whether the government has proven the defendant's guilt beyond a reasonable doubt?

Yes _____ No _____

If yes, please explain:

PART IV : LEGAL PRINCIPLES
(Questions 83 through 97)

Part IV explains some of the fundamental legal principles on which the Court will give instructions during the trial. If you believe you cannot follow these principles, you are duty bound to let the Court know now.

83. (a) Every defendant is presumed innocent and cannot be convicted unless the jury, unanimously and based solely on the evidence in the case, decides that his guilt has been proven beyond a reasonable doubt. The burden of proving guilt rests entirely with the government. It never shifts to the defendant at any time. The defendant has no burden of proof at all.

Would you have any difficulty following these rules?

Yes _____ No _____

If yes, please explain:

(b) Will you accept and apply this rule of law?

Yes _____ No _____

(c) Under the law, a defendant need not testify. If a defendant does not testify, the jury may not consider that fact in any way in reaching a decision as to whether a defendant is guilty or not guilty. Would you have any difficulty following this rule of law?

Yes _____ No _____

If yes, please explain:

84. The defendants are charged with illegal activity carried out as part of an enterprise called La Mara Salvatrucha or MS-13. Is there anything about the nature of these charges that would interfere with your ability to decide this case based solely on the evidence related to the specific charges alleged in the Indictment and nothing more, meaning whether the government has proved the defendants to be guilty beyond a reasonable doubt?

Yes _____ No _____

If yes, please explain:

85. An indictment itself is not evidence. It merely describes the charges made against the defendant. It is an accusation. It may not be considered by you as any evidence of the defendants' guilt. Are you able to follow this rule of law?

Yes _____ No _____

If no, please explain:

86. The defendants are charged with a number of separate crimes. Under the law, you must consider each alleged crime separately. You must find the defendant not guilty of each of the alleged crimes you are considering, unless the evidence that has been presented in court proves him guilty of each alleged crime beyond a reasonable doubt. Would you have any difficulty following these rules?

Yes _____ No _____

If yes, please explain:

87. A defendant has no obligation to testify. Should a defendant decide to testify, that does not shift the burden of proof to the defendant or diminish the obligation of the government to prove the defendant's guilt beyond a reasonable doubt. The government always carries this burden of proof in a criminal trial. Will you have any difficulty following this rule of law?

Yes _____ No _____

If yes, please explain:

88. Several witnesses in this case will be law enforcement officers.

(a) Do you hold any beliefs or opinions that would prevent you from evaluating the testimony of a law enforcement officer fairly and impartially?

Yes _____ No _____

If yes, please explain:

(b) A law enforcement witness's testimony is not to be given any more or less credence than any other witness's testimony. Would you be able to follow the Court's instructions in this regard?

Yes _____ No _____

If no, please explain:

89. You may hear that law enforcement officers secretly conducted visual, photographic and video surveillance during the investigation of this case. These investigative techniques are lawful. Do you have any feelings about the use of secret visual surveillance that might affect your ability to consider such evidence fairly?

Yes _____ No _____

If yes, please explain:

90. Some of the evidence in this trial may come from searches performed by law enforcement officers. These searches were lawful. Do you have any feelings about searches conducted by law enforcement officers that would make it difficult for you to consider such evidence fairly?

Yes _____ No _____

If yes, please explain:

91. You may hear evidence that a witness or witnesses in this case acted in an undercover capacity at the direction of the FBI and secretly recorded conversations with others. This is lawful. Do you have any feelings about undercover investigations conducted by law enforcement officers that would make it difficult for you to consider such evidence fairly?

Yes _____ No _____

If yes, please explain:

92. Some of the evidence that may come before the jury will include photographs of the victims' bodies showing wounds and other injuries. Would you be able to view such photographs and assess them as part of the evidence?

Yes _____ No _____

If yes, please explain:

93. Some government witnesses may testify that they participated in serious crimes, including murder. These witnesses, who may be referred to during trial as cooperating witnesses, may have lengthy criminal histories, may have pleaded guilty to crimes and may be testifying pursuant to agreements with the government in hopes that their own sentences will be reduced. Use of these witnesses is lawful.

(a) Do you hold any beliefs or opinions that would affect your ability to evaluate testimony from such witnesses fairly and impartially?

Yes _____ No _____

If yes, please explain:

(b) Would you be able and willing to fairly and impartially assess the testimony of such a witness, in accordance with the Court's instructions?

Yes _____ No _____

If no, please explain:

94. It is the law that the testimony of a single witness, even a cooperating witness, can be sufficient to convict a defendant of a charged crime, if the jury finds that the testimony of that witness establishes proof beyond a reasonable doubt.

Do you have any opinion or belief about the law or cooperating witnesses that would prevent you from applying this rule of law?

Yes _____ No _____

If yes, please explain:

95. Under the law, the facts are for the jury to determine and the law is for the Judge to determine. You are required to accept the law as the Judge explains it to you even if you do not like the law or disagree with it, and you must determine the facts according to those instructions.

Would you have any difficulty following the Judge's instructions?

Yes _____ No _____

If yes, please explain:

96. Under the law, the question of punishment, if any, should not enter your deliberations on guilt or innocence. Would you have any difficulty following this rule?

Yes _____ No _____

If yes, please explain:

97. Under the law, emotions such as sympathy, bias and prejudice must not enter into the deliberations of the jurors as to whether the guilt of the defendant has been proven beyond a reasonable doubt. Would you have any difficulty following this rule?

Yes _____ No _____

If yes, please explain:

PART VII : CONCLUSION
(Questions 98 through 101)

98. Is there anything about the nature of the charges or the facts of the case as they have been explained to you thus far that would affect your ability to be a fair and impartial juror in this case?

Yes _____ No _____

If yes, please explain:

99. Do you have any strong feelings about the criminal justice system in general that you have not stated in a previous question?

Yes _____ No _____

If yes, please explain:

100. Is there any other matter that you should call to the Court's attention that may have any bearing on your qualifications as a juror or that may affect your ability to render an impartial verdict based solely on the evidence and the Court's instructions on the law?

Yes _____ No _____

If yes, please describe:

101. Is there any matter you would prefer to discuss privately with the Judge?

Yes _____ No _____

WHEN YOU HAVE COMPLETED THE QUESTIONNAIRE AND REVIEWED ATTACHMENTS A AND B, PLEASE TURN TO THE LAST PAGE OF THIS QUESTIONNAIRE TO COMPLETE AND SIGN THE DECLARATION.

United States v. Heriberto Martinez, et al.
10 Cr. 074 (JFB)

ATTACHMENT A

Names of People Who Might Testify or Who May Be Disputed During Trial

*Please circle the name of any person listed below that you
know or have any connection with.*

To Be Complete By The Government

United States v. Heriberto Martinez, et al.
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ATTACHMENT B

Locations That Might Be Disussed During Trial

*Please circle the name of any location listed below that you
know about, have any connection with, or have visited.*

To Be Complete By The Government

United States v. Heriberto Martinez, et al.
10 Cr. 074 (JFB)

JUROR INFORMATION SHEET

Please complete the following:

Name: _____

Address: _____

Home Phone: _____

Work Phone: _____

Cell Phone: _____

WHEN YOU HAVE COMPLETED THE QUESTIONNAIRE, PLEASE
COMPLETE THE FOLLOWING DECLARATION:

DECLARATION

I solemnly state that my answers to the questions set forth in the attached
questionnaire are, to the very best of my ability, true and correct.

Date: _____ (Signature) _____